

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 2751 - SB 2785**

March 4, 2022

**SUMMARY OF BILL:** Increases the penalty for the offense of aggravated assault when committed by discharging a firearm from within a motor vehicle, from a Class C felony to a Class B felony. Increases the mandatory minimum sentence of incarceration from 90 days to one year. Increases the mandatory maximum fine to \$30,000.

Increases the penalty for reckless aggravated assault when committed by discharging a firearm from within a motor vehicle, from a Class D felony to a Class C felony. Increases the mandatory minimum sentence of incarceration, from 90 days to one year. Increases the mandatory maximum fine to \$30,000.

Requires revocation of the defendant's driver license for a period of up to one year and establishes the motor vehicle used in the commission of a second or subsequent violation of any such offenses or the offense of reckless endangerment is subject to seizure and forfeiture.

Enhances the penalty for the offense of reckless driving, from a Class B misdemeanor to a Class A misdemeanor, if a person operates a vehicle within certain congested areas at a speed that is at least 20 mph above the speed limit, and while weaving between lanes while other vehicles share the lanes. Requires revocation of the defendant's driver license for a period of up six months, a mandatory minimum sentence of incarceration of 30 days, and a mandatory fine of \$200.

**FISCAL IMPACT:**

**Increase State Expenditures – \$379,400 Incarceration**

**Increase Local Expenditures – \$21,900/FY22-23 and Subsequent Years\***

Assumptions:

*Aggravated Assault*

- Tennessee Code Annotated § 39-13-102(a)(1)(A)(iii) establishes that a person commits aggravated assault who intentionally or knowingly commits an assault and the assault involved the use or display of a deadly weapon.
- Pursuant to Tenn. Code Ann. § 39-13-102(e)(1)(A)(ii), aggravated assault is a Class C felony offense with a mandatory minimum sentence of 90 days incarcerated and a mandatory fine of \$15,000.

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- The proposed legislation increases the penalty for aggravated assault to a Class B felony with a mandatory minimum sentence of one year and a mandatory maximum fine of \$30,000 when the offense is committed by discharging a firearm from within a motor vehicle.
- Based upon information provided by the Department of Correction (DOC), there has been an average of 787.3 admissions in each of the last 10 years for the offense of aggravated assault.
- However, these admissions include offenses under Tenn. Code Ann. § 39-13-102(a)(1)(A)(i)-(iv). It is assumed that 25 percent or 196.8 (787.3 x 25.0%) of these admissions involved the use or display of a deadly weapon.
- It can be reasonably assumed that 10 percent or 19.68 of such admissions were committed by discharging a firearm from within a motor vehicle and will be classified as a Class B felony as a result of the proposed legislation (196.8 x 10.0%).
- The estimated average time served for aggravated assault is 1.66 years, after adjusting for pre-trial jail credits. The average time served for a Class B felony is 3.27 years.
- Accounting for recidivism rates, the proposed legislation will result in 11.39 admissions annually serving an additional 1.61 years (3.27 – 1.66).
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.74 percent per year for each of the past 10 years (from 2010 to 2020).
- The weighted average operational costs per day are estimated to be \$51.36 for inmates housed at state facilities and \$48.77 for inmates housed at local facilities.
- The estimated increase in incarceration costs are estimated to be the following over the next ten-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 1,700	FY22-23
\$ 75,500	FY23-24
\$ 288,100	FY24-25
\$ 346,500	FY25-26
\$ 348,700	FY26-27
\$ 352,600	FY27-28
\$ 353,700	FY28-29
\$ 355,600	FY29-30
\$ 358,300	FY30-31
\$ 362,800	FY31-32

- Pursuant to Tenn. Code Ann. § 9-4-210, recurring costs increases are to be estimated on the highest of the next ten fiscal years; therefore, the recurring increase in incarceration costs will be \$362,800.

#### *Reckless Aggravated Assault*

- Tennessee Code Annotated § 39-13-102(a)(1)(B)(iii) establishes that a person commits reckless aggravated assault who recklessly commits an assault that involves the use or display of a deadly weapon.

- Pursuant to Tenn. Code Ann. § 39-13-102(e)(1)(A)(v), reckless aggravated assault is a Class D felony offense with a mandatory minimum sentence of 90 days incarcerated and a mandatory fine of \$15,000.
- The proposed legislation increases the penalty for reckless aggravated assault to a Class C felony when the offense is committed by discharging a firearm from within a motor vehicle, and a minimum sentence of one year incarcerated.
- Based upon information provided by the DOC, there has been an average of 75.9 admissions of reckless aggravated assault in each of the last 10 years.
- However, these admissions include offenses under Tenn. Code Ann. § 39-13-102(a)(1)(B)(i)-(iii). It is assumed that 25 percent or 18.98 (75.9 x 25.0%) of these admissions involved the use or display of a deadly weapon.
- It can be reasonably assumed that 10 percent or 1.89 of such admissions were committed by discharging a firearm from within a motor vehicle and will be classified as a Class C felony as a result of the proposed legislation (18.98 x 10.0%).
- The estimated average time served for reckless aggravated assault is 0.94 years, after adjusting for pre-trial jail credits. The average time served for a Class C felony is 1.59 years.
- Accounting for recidivism rates, the proposed legislation will result in 1.28 admissions annually serving an additional 0.65 years (1.59 – 0.94).
- According to the DOC, 32.48 percent of offenders will re-offend within two years of their release. A recidivism discount of 32.48 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.74 percent per year for each of the past 10 years (from 2010 to 2020).
- The weighted average operational costs per day are estimated to be \$51.36 for inmates housed at state facilities and \$48.77 for inmates housed at local facilities.
- The estimated increase in incarceration costs are estimated to be the following over the next ten-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 1,500	FY22-23
\$ 15,500	FY23-24
\$ 15,600	FY24-25
\$ 15,800	FY25-26
\$ 15,900	FY26-27
\$ 16,100	FY27-28
\$ 16,100	FY28-29
\$ 16,300	FY29-30
\$ 16,400	FY30-31
\$ 16,600	FY31-32

- Pursuant to Tenn. Code Ann. § 9-4-210, recurring costs increases are to be estimated on the highest of the next ten fiscal years; therefore, the recurring increase in incarceration costs will be \$16,600.

### *Reckless Driving*

- Based on information provided by the Administrative Office of the Courts (AOC), there has been an average of 249 Class B misdemeanor convictions of reckless driving in each of the last 10 years.
- This analysis assumes that only 10 percent of misdemeanor convictions are at the state court level. As a result, it is estimated that there are 2,490 convictions ( $249 / 10.0\%$ ) per year for Class B misdemeanor reckless driving.
- It can be reasonably assumed that one half of one percent or 12.45 ( $2,490 \times 0.05\%$ ), of such convictions will be classified as a Class A misdemeanor under this legislation.
- It is assumed that an individual convicted of a Class B misdemeanor offense will spend an average of 1 day in a local jail.
- The proposed legislation will result in 12.45 convictions annually serving an additional 29 days (30-1) in local jail.
- Based on cost estimates provided by local government entities throughout the state and reported bed capacity within such facilities, the weighted average cost per day to house an inmate in a local jail facility is \$60.69.
- The recurring mandatory increase in expenditures to local governments is estimated to be \$21,912 ( $12.45 \text{ convictions} \times \$60.69 \times 29$ ) in FY22-23 and subsequent years.

### *Total Impact*

- The recurring increase in state incarceration expenditures will be \$379,400 ( $\$362,800 + \$16,600$ ).
- The recurring increase in local incarceration expenditures will be \$21,912 in FY22-23 and subsequent years.
- Any impact to the Department of Safety resulting from driver license revocation is estimated to be not significant.
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal note are available upon request.

*\*Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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